IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2821 OF 2007
IN
PAUPER PETITION NO. 3 OF 199

Smt. Neeta Das alias Neeta Fernandes. ... Plaintiff.

V/s.

Mary Reslin Joseph & Ors. ... Defendants.

....

Mr. Ashok M. Saraogi for the Plaintiff.
Mr. Ajay Fernandes with Mr. S.S. Redekar for the Defendant.

....

CORAM : DR. D.Y. CHANDRACHUD,J.

20TH NOVEMBER 2007.

P.C. :-

. The relief sought in the motion is for the appointment of a receiver in respect of three rooms situated in the outhouse of a bungalow originally known as Sulmonville situated at North Avenue, Santacruz (West), Mumbai. The second relief is for an order of injunction. The Petitioner had instituted a suit before the City Civil Court in which, by an order dated

28th June 2006, the Trial Court had called upon the Petitioner to value the claim correctly and to amend the plaint accordingly. This order was not complied with and on 31st July 2006, the plaint came to be rejected under Order VII Rule 11 of the Code of Civil Procedure. The order of the City Civil Court was confirmed by this Court while dismissing the Writ Petition filed by the Petitioner on 29th January 2007. A Pauper Petition has now been instituted sometime in April 2007.

2. The averments contained in the Petition are to the effect that the Petitioner had visited Calcutta sometime in January 2006 and upon her return on 9th February 2006 she found that she has been dis-possessed. The proceedings before this Court are founded on the provisions of Section 6 of the Specific Relief Act and ought to have been therefore instituted within six months from the alleged date of dis-possession. Even after the City Civil Court passed this order dated 31st July 2006, the Petitioner moved these proceedings much beyond the period of six months. That apart, there is prima facie nothing to substantiate the case of the Petitioner of her alleged

possession as in January/February 2006. No case is, therefore, made out for the grant of any relief in the Notice of Motion. The Notice of Motion is accordingly dismissed.

3. On the request of Counsel appearing on behalf of the Respondent it has been stated that the statement which was made during the pendency of these proceedings shall continue to remain in operation for a further period of two weeks from today.